

ASSISTANT COMMISSIONER FOR PATENTS  
Washington, DC 20231In re application of: Gregor CEVC  
Serial No.: 09/284,683  
Filed: June 24, 1999  
For: PREPARATION FOR THE TRANSPORT OF AN ACTIVE SUBSTANCE ACROSS  
BARRIERS

Sir:

Transmitted herewith is a **Information Disclosure Statement** in the above-identified application.

- ☐ Small entity status under 37 C.F.R. 1.9 and 1.27 has been previously established.  
☐ Applicants assert small entity status under 37 C.F.R. 1.9 and 1.27.  
☒ No fee for additional claims is required.  
☐ A filing fee for additional claims calculated as shown below, is required:

FOR:	(Col. 1)		(Col. 2)		SMALL ENTITY		OR	LARGE ENTITY	
	REMAINING	HIGHEST	AFTER	PREVIOUSLY PRESENT	RATE	FEE		RATE	FEE
			AMENDMENT	PAID FOR	EXTRA				
TOTAL CLAIMS	* Minus**	=	0		x \$ 9	\$		x \$ 18	\$
INDEP. CLAIMS	* Minus***	=	0		x \$ 40	\$		x \$ 80	\$
[ ] FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ \$135	\$		+ \$270	\$

TOTAL: \$ OR TOTAL: \$

- \* If the entry in Co. 1 is less than the entry in Col. 2, write "0" in Col. 3.  
 \*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.  
 \*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space.

- ☒ Also transmitted herewith are:  
☐ Petition for extension under 37 C.F.R. 1.136 (in duplicate)  
☒ Other: Form PTO 1449 and Copies of References DB-DL
- ☐ Check(s) in the amount of **\$ .00** is/are attached to cover:  
☐ Filing fee for additional claims under 37 C.F.R. 1.16  
☐ Petition fee for extension under 37 C.F.R. 1.136  
☐ Other:
- ☒ The Assistant Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0552.
- ☒ Any filing fee under 37 C.F.R. 1.16 for the presentation of additional claims which are not paid by check submitted herewith.
- ☒ Any patent application processing fees under 37 C.F.R. 1.17.
- ☒ Any petition fees for extension under 37 C.F.R. 1.136 which are not paid by check submitted herewith, and it is hereby requested that this be a petition for an automatic extension of time under 37 CFR 1.136.

*Time (any)*  
 Livia S. Boyadjian, Reg. No. 34,781  
 DAVIDSON, DAVIDSON & KAPPEL, LLC  
 485 Seventh Avenue, 14<sup>th</sup> Floor  
 New York, New York 10018  
 Tel: (212) 736-1940  
 Fax: (212) 736-2427

I hereby certify that this correspondence and/or documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "first class mail" in an envelope addressed to "Assistant Commissioner for Patents, Washington, D.C. 20231" on December 4, 2001.

DAVIDSON, DAVIDSON &amp; KAPPEL, LLC

BY: *James E. Waller*

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

Re: Application of: Gregor CEVC  
Serial No.: 09/284,683  
Filed: June 24, 1999  
For: PREPARATION FOR THE TRANSPORT OF AN  
ACTIVE SUBSTANCE ACROSS BARRIERS

BOX: CPA  
Assistant Commissioner for Patents  
Washington, D.C. 20231

December 4, 2001

**INFORMATION DISCLOSURE STATEMENT (2 of 4)**

Sir:

In order to facilitate the mailing of all references listed on the enclosed form PTO-1449, this Information Disclosure Statement is the **second** of four identical Information Disclosure Statements and forms PTO-1449 submitted in the above-referenced application. Specifically, this Information Disclosure Statement is filed with references **BA-BR** of form PTO-1449.

Pursuant to the provisions of 37 C.F.R. §§ 1.97-1.99, Applicant submits herewith the following Information Disclosure Statement. Applicant respectfully requests consideration of the references listed on the attached form PTO-1449.

U.S. Patent No. 5,741,515 (reference AD) corresponds to EP 0 707 847 (Bayer); U.S. Patent No. 5,958,379 (reference AA) corresponds to EP 0 704 206 (Regenold); and U.S. Patent No. 6,165,500 (reference BA) corresponds to EP 0 475 160 (Cevc). Canadian Patent CA 1 143 656 (reference AK) corresponds to German patent DE 30 16 976 (reference AT).

The undersigned attorney has recently learned that there had been an Opposition to German Patent, DE 4447287 C1 which has a specification corresponding to the above referenced U.S. application. The above referenced application is a filing under 35 U.S.C. 371 of International application PCT/EP96/04526 filed on October 17, 1996. Specifically, in the German Patent Office DE 4447287 C1 has been subject to an Opposition Proceeding brought on or about February 6, 1997 by ROVI GmbH (the "Opponent"), which proceeding is still in progress.

The claims granted in the DE 4447287 C1 correspond to the claims set forth in PCT/EP96/04526 and the claims originally filed in the above referenced application. However, the claims granted in DE 4447287 C1 are different in scope from the claims pending in this

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Prior art  
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application. Nevertheless, the following information is provided so that the Examiner is able to review the references cited and the arguments made by the Opponent in the Opposition Proceeding. For the Examiner's convenience a copy of the German Patent is attached hereto as Exhibit A, although a copy of the German patent has been previously filed with an Information Disclosure Statement on November 30, 1999 in the above-referenced application.

### **OPPOSITION OF DE 4447287 C1**

The Opponent sought revocation of the DE 4447287 C1 in accordance with §21, Section 1, Nos. 1, and 2 and §1, Sec. 1, No. 2 of the German Patent Law, alleging anticipation, lack of inventive activity, and deficient disclosure.

Five references, publications D1-D5, were cited by the Opponent. Publication D1 is EP 0 475 160 filed as reference AM in an Information Disclosure Statement filed on November 30, 2000 in the above-referenced application. Publications D2-D5 are listed on the attached form PTO-1449 as references CP, BP, CO and DL, respectively. Attached hereto as Exhibit B are the Opponent's arguments filed in support of the Opposition Request. Also attached is Exhibit C, the Patentee's response, wherein the Patentee requested that the Opposition be revoked as impermissible or, in the alternative, as unfounded and further requested that a hearing be scheduled. Exhibit D hereto is the Opponent's response to the Patentee's response to the Opponent's Arguments in support of the Opposition Request. In this document, the Opponent continues to present arguments for the admissibility of the grounds for opposition, and anticipation, lack of inventive activity and deficient disclosure of DE 4447287 C1. Exhibit E hereto is the Patentee's response to the Opponent's response as set forth in Exhibit D. Exhibits B to E are the English translation of the documents filed in German during the Opposition Proceeding.

During the prosecution of DE 4447287 C1, the Examiner had cited five PCT publications and European application EP 0 224 837 A2, each of which is listed on form PTO-1449, as references CB-CG, respectively. Because the disclosure of the EP 0224837 is in German, Applicant has also listed the corresponding U.S. disclosure, i.e., U.S. Patent No. 4,954,345 as reference AB on form PTO-1449.

**COPENDING APPLICATIONS**

The undersigned also respectfully directs the Examiner's attention to Applicant's copending patent applications as follows:

U.S. Patent Application Serial No. (U.S.S.N.) 09/621,574 filed June 21, 2000 as a continuation of U.S.S.N. 07/844,664 filed April 8, 1992 now issued as U.S. Patent No. 6,165,500 to Cevc, entitled "Preparations for the application of agents in mini-droplets";

U.S.S.N. 09/555,986 filed August 17, 2000 entitled "Method for developing, testing and using associates of macromolecules and complex aggregates for improved payload and controllable de-association rates" to Cevc et al.;

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This Information Disclosure Statement is not a representation that the documents cited herein are considered most pertinent, or that a search has been undertaken or that any of the cited documents are indeed prior art. The Examiner is invited to undertake an independent search.

Pursuant to Rule 37 C.F.R. §1.97(b), an Information Disclosure Statement shall be considered by the Patent Office if filed before the mailing date of the first Official Action on the merits. Thereafter, an Information Disclosure Statement shall be considered if it is accompanied by the requisite fees set forth in 37 C.F.R. §121.17. Since, this Information Disclosure Statement is being filed prior to the receipt of a first Official Action on the merits, no fee is required.

Finally, the Commissioner is authorized to charge any additional fee or credit, any overpayment in such fees to Deposit Account No. 50-0552.

Applicant respectfully requests that the Examiner consider and make of record the documents cited herein. Applicant further requests that a copy of the form PTO-1449, appropriately initialed by the Examiner, be returned to the Applicant in turn.

If the Examiner has any questions or comments relating to the present application, he or she is respectfully invited to contact Applicant's attorney at the telephone number set forth below.

Respectfully Submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By: 

Clifford M. Davidson

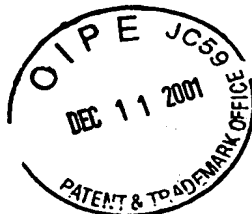
Reg. No. 32,728

Livia S. Boyadjian

Reg. No. 34,781

Davidson, Davidson & Kappel, LLC  
485 Seventh Avenue, 14th Floor  
New York, New York 10018  
(212) 736-1940

ASSISTANT COMMISSIONER FOR PATENTS  
Washington, DC 20231



Docket No.: 500.1667 CPA  
Date: December 4, 2001

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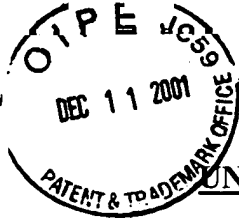
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DAVIDSON, DAVIDSON & KAPPEL, LLC

BY:



**UNITED STATES PATENT AND TRADEMARK OFFICE**

Re: Application of: Gregor CEVC  
Serial No.: 09/284,683  
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For: PREPARATION FOR THE TRANSPORT OF AN  
ACTIVE SUBSTANCE ACROSS BARRIERS

BOX: CPA  
Assistant Commissioner for Patents  
Washington, D.C. 20231

100.1007CPA

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December 4, 2001

**INFORMATION DISCLOSURE STATEMENT (3 of 4)**

Sir:

In order to facilitate the mailing of all references listed on the enclosed form PTO-1449, this Information Disclosure Statement is the **third** of four identical Information Disclosure Statements and forms PTO-1449 submitted in the above-referenced application. Specifically, this Information Disclosure Statement is filed with references **CB-CU** of form PTO-1449.

Pursuant to the provisions of 37 C.F.R. §§ 1.97-1.99, Applicant submits herewith the following Information Disclosure Statement. Applicant respectfully requests consideration of the references listed on the attached form PTO-1449.

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The claims granted in the DE 4447287 C1 correspond to the claims set forth in PCT/EP96/04526 and the claims originally filed in the above referenced application. However, the claims granted in DE 4447287 C1 are different in scope from the claims pending in this

application. Nevertheless, the following information is provided so that the Examiner is able to review the references cited and the arguments made by the Opponent in the Opposition Proceeding. For the Examiner's convenience a copy of the German Patent is attached hereto as Exhibit A, although a copy of the German patent has been previously filed with an Information Disclosure Statement on November 30, 1999 in the above-referenced application.

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**COPENDING APPLICATIONS**

The undersigned also respectfully directs the Examiner's attention to Applicant's copending patent applications as follows:

U.S. Patent Application Serial No. (U.S.S.N.) 09/621,574 filed June 21, 2000 as a continuation of U.S.S.N. 07/844,664 filed April 8, 1992 now issued as U.S. Patent No. 6,165,500 to Cevc, entitled "Preparations for the application of agents in mini-droplets";

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If the Examiner has any questions or comments relating to the present application, he or she is respectfully invited to contact Applicant's attorney at the telephone number set forth below.

Respectfully Submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By: 

Clifford M. Davidson

Reg. No. 32,728

Livia S. Boyadjan

Reg. No. 34,781

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ASSISTANT COMMISSIONER FOR PATENTS  
Washington, DC 20231

In re application of: Gregor CEVC  
Serial No.: 09/284,683  
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Docket No.: 500,1607CPA  
Date: December 4, 2001

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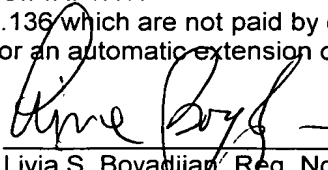
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TOTAL: \$ OR TOTAL: \$

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DAVIDSON, DAVIDSON & KAPPEL, LLC

BY: 

UNITED STATES PATENT AND TRADEMARK OFFICE

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*19/Suppl  
Prior Art w/let*

BOX: CPA  
 Assistant Commissioner for Patents  
 Washington, D.C. 20231

December 4, 2001

INFORMATION DISCLOSURE STATEMENT (4 of 4)

*Bot  
12-26-01*

Sir:

In order to facilitate the mailing of all references listed on the enclosed form PTO-1449, this Information Disclosure Statement is the **fourth** of four identical Information Disclosure Statements and forms PTO-1449 submitted in the above-referenced application. Specifically, this Information Disclosure Statement is filed with references **DB-DL** of form PTO-1449.

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**COPENDING APPLICATIONS**

The undersigned also respectfully directs the Examiner's attention to Applicant's copending patent applications as follows:

U.S. Patent Application Serial No. (U.S.S.N.) 09/621,574 filed June 21, 2000 as a continuation of U.S.S.N. 07/844,664 filed April 8, 1992 now issued as U.S. Patent No. 6,165,500 to Cevc, entitled "Preparations for the application of agents in mini-droplets";

U.S.S.N. 09/555,986 filed August 17, 2000 entitled "Method for developing, testing and using associates of macromolecules and complex aggregates for improved payload and controllable de-association rates" to Cevc et al.;

U.S.S.N. 09/887,493 filed June 22, 2001 entitled "Improved formulation for topical non-invasive application in vivo" to Cevc.

The EP equivalent filing (EP 0475160 B1) of U.S. Patent No. 6,165,500, mentioned above, has been the subject of an EP Opposition Proceeding. A decision has been rendered by the EPO Opposition Division upholding EP 0475160 B1 in its entirety, and an Appeal from the foregoing decision is still pending.

All references cited in the Opposition to DE 4447287 C1 were also cited in the Opposition to EP 0475160 B1. References cited in the Opposition and Appeal Proceedings to EP 0475160 B1 that were not cited in the Opposition to DE 4447287 C1 have also been made of record. Additionally, references cited in the above referenced copending applications and related applications pending in other foreign patent offices have also been made of record on attached form PTO-1449.

This Information Disclosure Statement is not a representation that the documents cited herein are considered most pertinent, or that a search has been undertaken or that any of the cited documents are indeed prior art. The Examiner is invited to undertake an independent search.

Pursuant to Rule 37 C.F.R. §1.97(b), an Information Disclosure Statement shall be considered by the Patent Office if filed before the mailing date of the first Official Action on the merits. Thereafter, an Information Disclosure Statement shall be considered if it is accompanied by the requisite fees set forth in 37 C.F.R. §121.17. Since, this Information Disclosure Statement is being filed prior to the receipt of a first Official Action on the merits, no fee is required.

Finally, the Commissioner is authorized to charge any additional fee or credit, any overpayment in such fees to Deposit Account No. 50-0552.

Applicant respectfully requests that the Examiner consider and make of record the documents cited herein. Applicant further requests that a copy of the form PTO-1449, appropriately initialed by the Examiner, be returned to the Applicant in turn.

If the Examiner has any questions or comments relating to the present application, he or she is respectfully invited to contact Applicant's attorney at the telephone number set forth below.

Respectfully Submitted,

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